



## UNITED STATES DEPARTMENT OF COMMERCE

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U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Applicants: Schneider et al.

Serial No.: 09/002,710

Filed: 1/5/98

**Notice of redeclaration of an interference  
to include this application and the entry of  
judgment against claims 66-81 of this application**

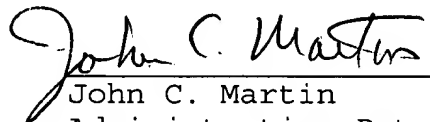
In the September 30, 2003, "REDECLARATION AND JUDGMENT" in Interference 103,881 (copy enclosed together with a copy of the original declaration), that interference was redeclared to add this Schneider et al. application (i.e., 09/002,710) and Klaveness et al. Reissue Application 09/227,410 to this interference and to designate the following claims as corresponding to Count 1, the sole count in that interference:

- (1) Claim 43 of Yan et al. Application 08/637,346;
- (2) Claims 66-81 of this Schneider et al. application;
- (3) Claims 26, 28-30, and 42-50 of Quay Application 08/646,910;
- (4) Claims 2, 39, and 40 of Klaveness et al. Patent 5,536,490; and
- (5) Claims 2, 39, 40, and 45 of Klaveness et al. Reissue Application 09/227,410.

Judgment was entered against all of the foregoing claims on the ground of unpatentability over the prior art. Judgment was

Application 09/002,710

also entered against the following claims under 35 U.S.C. § 112, first paragraph for lacking written descriptive support: claim 43 of the Yan et al. '346 application; claims 2 and 40 of the Klaveness et. al. patent; and claims 2 and 40 of the Klaveness et al. reissue application.



John C. Martin  
Administrative Patent Judge  
(703) 308-9783

Application 09/002,710

CC:

Thomas J. Macpeak, Esq.  
ARMSTRONG, WESTERMAN & HATTORI LLP  
1725 K Street, N.W.  
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Richard L. DeLucia, Esq.  
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New York, NY 10004

Nixon and Vanderhye  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201-4714

Enclosures:

- (a) Copy of "REDECLARATION AND JUDGMENT" in Interference  
103,881; and
- (b) Copy of original declaration notice in Interference  
103,881.



Paper No. 2

**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: BOX INTERFERENCE  
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**MAILED**

**JUL 16 1997**

**PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Filed by: Michael Sofocleous  
Telephone: (703) 308-9823  
Facsimile: (703) 308-7953

Interference No. 103,881

Yan et al.  
v.  
Quay  
v.  
Klaveness et al.

**INTERLOCUTORY ORDER NO. 1 SETTING TIMES FOR  
FILING PRELIMINARY STATEMENTS AND MOTIONS  
AND REQUIREMENTS FOR PRELIMINARY MOTIONS**

This interference has been assigned to the undersigned Administrative Patent Judge (APJ) in accordance with 37 CFR § 1.610. All future papers filed in this interference should be captioned to include this information. To secure the just, speedy and inexpensive determination of this interference in accordance with 37 CFR § 1.601, the APJ is issuing the following requirements for taking action in this interference.

Questions of Procedure

Any questions regarding procedure in this interference should be directed to the undersigned APJ or to a Program and Resource Administrator. Any telephone communication with the undersigned must should normally include the participation of both parties, for example, via a conference call. A telephone communication for the purpose of requesting an extension of the times set need not include the participation of the opposing party as long as the party is informed of the communication.

Identification of Lead Attorney or Agent

Each party is required to file a paper in accordance with 37 CFR § 1.613 identifying its lead attorney or agent (see 37 CFR § 1.601(k)). Future changes in the lead attorney or agent must

likewise be called to the attention of this board as soon as is reasonably possible. No contact should be made with the undersigned by anyone other than the lead attorneys or agents.

#### Identification of Assignee

The parties' attention is directed to the requirements of 37 CFR § 1.602(b) and (c). 37 CFR § 1.602(b) requires that the parties notify the Board within 20 days after declaration of "any and all right, title and interest in any application or patent involved or relied upon in the interference unless the right, title and interest is set forth in the notice declaring the interference." See 37 CFR § 1.602(c) for any change of any right, title and interest in any application or patent involved or relied upon in the interference.

Note also that under new rules 37 CFR §§ 3.71 and 3.73, when an assignee seeks to appoint an attorney or take other action, such as filing a terminal disclaimer, it is up to the assignee to establish ownership and to submit a statement certifying that title is in the assignee.

#### Box Interference

There has been confusion regarding the use of the "BOX INTERFERENCE" requirement of 37 CFR § 1.1(e) in the filing of papers. Unless the paper itself is hand carried to the Service Branch of the Board of Patent Appeals and Interferences, located in Room 10C01 of Crystal Gateway 2 (1225 Jefferson Davis Highway, Arlington, VA), the designation "BOX INTERFERENCE" must be on the outside of the envelope containing the paper as well as on the paper itself. Merely hand carrying a paper to the PTO Mail Room does not suffice.

#### Explanation of Each Party's Invention

The technical background of the judge assigned to this interference is chemistry. It would be helpful if each party would file a double spaced "paper" of no more than eight (8) pages (including heading and signature block, but not certificate of service) which explains the party's invention in plain English using as technical terms as reasonably possible. Each party is authorized to file, a "response" of no more than five (5) pages (including heading and signature block, but not certificate of service) to an opponent's "paper," again using as few technical terms as reasonably possible. A response should be filed within

15 days after the date of service of the "paper". The "papers" and "responses" should prove useful in further proceedings before the PTO and/or other forums.

Additional Requirements with Respect to Motions under 37 CFR § 1.633(c) and (i)

Each preliminary motion to redefine under 37 CFR § 1.633(c) or (i) must be accompanied by a certificate under 37 CFR § 1.637(b), stating that the moving party has conferred with each opposing party in an effort in good faith to resolve by agreement the issues raised by the motion. If an agreement cannot be reached, the certificate will state that all the reasons and facts in support of the motion were discussed with each opponent, identify the issues and/or facts in dispute and state the reasons why each opposing party disagrees.

Each preliminary motion under 37 CFR § 1.633(c) shall contain an appendix which sets forth proposed count(s) and proposed claims. The proposed counts are to be labeled as follows:

NAME OF THE PARTY IN CAPITAL LETTERS PROPOSED COUNT A, B, etc.

Contingent Motion under 37 CFR § 1.633(i)

In response to a motion under 37 CFR § 1.633(a), (b), or (g), a party may file a motion under 37 CFR § 1.633(i) to redefine under 37 CFR § 1.633(c), to substitute a new application under 37 CFR § 1.633(d), or a motion to add a reissue application under 37 CFR § 1.633(h). The party filing the motion under 37 CFR § 1.633(i) must show a nexus between the motion filed under 37 CFR § 1.633(i) and the motion under 37 CFR § 1.633(a), (b), or (g). Cf. Pearson v. Wolfe, 210 USPQ 686 (Com'r. 1979).

The filing of a motion under 37 CFR § 1.633(i) does not reopen the motion period to the filing of additional motions under 37 CFR § 1.633(a) to (e) or (g) to (i).

Title and Numbering of Preliminary Motions, etc.

The parties are requested to use titles for preliminary motions, oppositions, and replies, i.e.,

SMITH PRELIMINARY MOTION NO. 1 FOR JUDGMENT....  
JONES OPPOSITION NO. 1 TO SMITH PRELIMINARY MOTION....  
SMITH REPLY NO. 1 TO JONES OPPOSITION NO. 1....

"Combined" Oppositions and Replies not to be Filed

An opposition shall not contain a motion and shall respond to only a single preliminary motion; so-called "combined" oppositions responding to more than one preliminary motion shall not be filed.

A reply shall be directed only to new points raised in the opposition. See 37 CFR § 1.638(b). A reply shall not contain a motion and shall respond to only a single opposition; so-called "combined" replies to more than one opposition shall not be filed.

Incorporation by Reference

No motion, opposition, or reply may incorporate therein by reference another motion, opposition, or reply.

Prohibition Against Presenting Duplicate Papers

When presenting a paper in this interference, counsel shall not submit with the paper (as an appendix, exhibit, or otherwise) a copy of a paper previously filed in the interference (37 CFR § 1.618(b)).

Time and Manner of Filing Documentary Exhibits and Affidavits

Documentary exhibits (patents, printed publications, etc.) referred to in preliminary motions, oppositions, or replies should be identified by documentary exhibit numbers (not letters) on a label placed in the lower right-hand corner of the first page of the exhibit. Compare 37 CFR § 1.653(i). If important material is covered by an exhibit label on the first page of the exhibit, a copy of the first page of the exhibit may be reproduced and presented as page 1-a of the exhibit. Documentary exhibits should be labeled as follows:

Documentary Exhibit 1  
NAME OF PARTY IN CAPITAL LETTERS  
Interference No. \_\_\_\_, \_\_

Affidavits referred to in preliminary motions, oppositions, or replies should be identified by exhibit numbers (not letters) on a label placed in the lower right-hand corner of the first page of the exhibit. Compare 37 CFR § 1.653(i). Affidavits should be labeled as follows:

Affidavit Exhibit 1  
NAME OF PARTY IN CAPITAL LETTERS  
Interference No. \_\_\_\_, \_\_

The documentary exhibits should be bound together in numerical order in one or more spiral bound volumes as necessary. The affidavit exhibits should also be bound together in numerical order in a separate spiral bound volume. Each preliminary motion, opposition, or reply shall refer to a documentary or affidavit exhibit by number; each affidavit shall refer to a documentary exhibit by number. The purpose of this requirement is to avoid the filing of multiple copies of the same documentary or affidavit exhibit merely because the exhibit is referred to in more than one preliminary motion, opposition, or reply.

A documentary or affidavit exhibit mentioned in preliminary motions, oppositions, or replies shall be served (but not filed) with the preliminary motion, opposition, or reply in which the exhibit is first mentioned, and all documentary and affidavit exhibits mentioned in preliminary motions, oppositions, or replies shall be filed in the PTO on the date that replies to oppositions to motions are due.

Clean Copy of Each Party' Claims, Proposed Claims and Proposed Counts

Each party is required to file a copy of its claims designated in the notice declaring this interference as corresponding to the count, a copy of each claim proposed to be added to this interference, and a copy of each count proposed in any preliminary motion filed by the party. The required copy must be filed on the date that replies to oppositions to motions are due. The copy can be incorporated in a separate volume or in the volume containing the documentary exhibits.



Paper Size

All papers (e.g., identification of lead counsel, notifications, requests, motions, oppositions, etc.) filed in this interference shall be on 8-1/2 inch x 11 inch paper (with the possible exception of original exhibits); papers of a different size, including legal size papers, shall not be filed; all papers shall be punched at the top with two-1/4 inch holes spaced 2-3/4 inches apart.

SETTLEMENT

The parties are strongly encouraged to make contact with each other at the time that they identify their respective lead attorneys or agents in an attempt to settle this interference. The APJ can be expected to cooperate in allowing reasonable time for a bona fide attempt at settlement negotiations, which will obviate the necessity for filing preliminary motions and will result in the filing of an appropriate termination paper under 37 CFR § 1.662.

Setting of Times for Taking Action in this Interference

1. For identifying lead attorney or agent to close **30 JUL 1997**
2. For filing explanations to close **30 AUG 1997**
3. For filing preliminary statements to close **16 OCT 1997**
4. For serving preliminary statements to close **30 OCT 1997**
5. For filing preliminary motions under 37 CFR § 1.633(a) to (g) to close **16 DEC 1997**
6. For filing preliminary motions under 37 CFR § 1.633(i) or (j) to close **06 JAN 1998**

7. For filing oppositions to preliminary motions filed under 37 CFR § 1.633 to close ~~26 JAN 1998~~.
8. For filing replies to oppositions to preliminary motions to close ~~10 FEB 1998~~.



MICHAEL SOFOCLEOUS

Administrative Patent Judge

Telephone (703) 308-9823

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Interference No. 103,881

8

Richard E. Fichter  
BACON & THOMAS  
625 Slaters Lane - 4th Floor  
Alexandria, VA 22314

Arthur R. Crawford, et al.  
NIXON & VANDERHYE, P.C.  
1100 North Glebe Road, 8th Floor  
Arlington, VA 22201

W. Patrick Bengtsson  
LIMBACH & LIMBACH, LLP  
2001 Ferry Bldg.  
San Francisco, CA 94111

The parties involved in this interference are:

JUNIOR PARTY

Applicants: Feng Yan  
12, route des Acacias  
Carouge, Switzerland 1227  
  
Michel Schneider  
34, route d'Annecy  
Troinex, Switzerland 1256  
  
Jean Brochot  
L-Agnellu, Feigères  
74160

Application No.: U.S. Serial No. 08/637,346, filed April 25, 1996

For: ULTRASOUND CONTRAST MEDIA, CONTRAST AGENTS CONTAINING THE  
MEDIA AND METHOD

#74 PP. 11 Assignee: ~~None~~ Bracco Research, Switzerland

Attorney(s): Arthur R. Crawford, Larry S. Nixon, Robert A.  
Vanderhye, James T. Hosmer, Robert W. Faris,  
Richard G. Besha, Mark E. Nusbaum, Michael J.  
Kennan, Bryan G. Davidson, Stanley C. Spooner,  
Leonard C. Mitchard, Duane M. Byers, Paul J.  
Henon, Jeffry H. Nelson, John R. Lascova,  
H. Warren Burnam and Thomas E. Bryne

Accorded Benefit: U. S. Application 07/991,237, filed December  
16, 1992, now Patent No. 5,413,774, issued  
May 9, 1995; U.S. Application 08/352,108,  
filed November 30, 1994, now Patent No.  
5,556,610, issued September 17, 1996.

Address: Arthur R. Crawford, et al.  
NIXON & VANDERHYE, P.C.  
1100 North Glebe Road - 8th Floor  
Arlington, VA 22201

JUNIOR PARTY

Applicants: Steven C. Quay  
14949 Corona del Mar,  
Pacific Palisades, CA 90272

Application No.: U.S. Application 08/646,910, filed May 8, 1996

For: GASEOUS ULTRASOUND CONTRAST MEDIA AND METHOD FOR SELECTING  
GASES FOR USE AS ULTRASOUND CONTRAST MEDIA

Assignee: SONUS Pharmaceuticals

Attorney(s): Karl A. Limbach, George C. Limbach, John K. Uilkema, J. William Wigert, Jr., Philip M. Shaw, Jr., Neil A. Smith, Carrie L. Walthour, Veronica C. Devitt, Ronald L. Yin, Gerald T. Sekimura, Michael A. Stallman, Philip A. Girard, Michael J. Pollock, Stephen M. Everett, Alfred A. Equitz, W. Patrick Bengtsson, Mark A. Dalla Valle, Charles P. Sammut, Richard A. Nebb, Richard E. Wawrzyniak, Alan D. Minsk, Mark C. Pickering, Kathleen A. Frost, David Woycechowsky, Alan S. Hodes, Patricia Coleman Jhames, Alan A. Limbach, Slade E. Smith, J. Thomas McCarthy, Ted Naccarell, Michael R. Ward and Douglas C. Limbach

Accorded benefit: U.S. Applications 07/761,311, filed September 17, 1991; 07/893,657, filed June 5, 1992, now Patent No. 5,409,688, issued April 25, 1995; 07/936,011, filed Sept. 2, 1992; 08/380,085, filed January 30, 1995, now Patent No. 5,558,854, issued September 24, 1996.

Address: Attn: W. Patrick Bengtsson  
LIMBACH & LIMBACH, LLP  
2001 Ferry Bldg.  
San Francisco, CA 94111

SENIOR PARTY

Patentees:               Jo Klaveness  
                          Skøyen terrasse 15,  
                          N-0276, Oslo, NO

                          Hanno Priebe  
                          Johan Castbergs cei 56,  
                          N-0673 Oslo, NO

                          Pål Rongved  
                          Hovdens vei 13,  
                          N-1454 Hellvik, NO

                          Lars Stubberud  
                          Karlskovsvägen 7,  
                          S-151 37 Sködertälje, SE

Application No.: U.S. Application 08/119,217, filed October  
                          29, 1993, now Patent No. 5,536,490, issued  
                          July 16, 1986.

For: CONTRAST AGENTS

Assignee: Nycomed Imaging AS, Ohio, Norway

Attorney(s): J. Ernest Kenney, Eugene Mar, Richard E. Fichter,  
                          Charles R. Wolfe, Jr., Thomas J. Moore, David E.  
                          Dougherty and Bruce H. Troxell

Accorded benefit: United Kingdom Serial No. 9106673.8,  
                          filed March 28, 1991; PCT/EP92/00715,  
                          filed March 28, 1992

Address: Richard E. Fichter  
                          BACON & THOMAS  
                          625 Slaters Lane - 4th Floor  
                          Alexandria, VA 22314

COUNT 1

A method of ultrasonic imaging comprising administering to a subject a [sic] composition comprising microbubbles of a fluorinated gas; and ultrasonically imaging at least a portion of said subject

or

A method of ultrasonic imaging comprising administering to a subject a composition comprising microbubbles a fluorinated gas, wherein said fluorinated gas is selected from the group consisting of  $\text{SF}_6$ ,  $\text{SeFe}_6$ ,  $\text{CF}_4$ ,  $\text{CBrF}_3$ ,  $\text{C}_4\text{F}_8$ ,  $\text{CClF}_3$ ,  $\text{CCl}_2\text{F}_2$ ,  $\text{C}_2\text{F}_6$ ,  $\text{C}_2\text{ClF}_5$ ,  $\text{CBrClF}_2$ ,  $\text{C}_2\text{Cl}_2\text{F}_4$ ,  $\text{CBr}_2\text{F}_2$ , and  $\text{C}_4\text{F}_{10}$ ; and ultrasonically imaging at least a portion of said subject

or

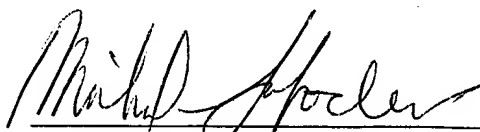
A method of enhancing ultrasound images of a vascular system comprising administering to said system a diagnostic ultrasound contrast agent comprising microbubbles comprising an amphiphilic phospholipid material capable of formation of gas-containing microbubbles, said microbubbles containing a gas comprising  $\text{SF}_6$ ; wherein said phospholipid material is cross-linked or polymerized.

The claims of the parties which correspond to the count are:

Yan et al.: Claim 43.

Quay: Claim 26.

Klaveness et al.: Claims 39 and 40.



MICHAEL SOFOCLEOUS

Administrative Patent Judge

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Interference No. 103,881

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San Francisco, CA 94111

MS/cam



The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

Paper No. 393

Filed by: Merits Panel  
Box Interference  
Washington, D.C. 20231  
Tel.: 703-308-9797  
Fax: 703-305-0942

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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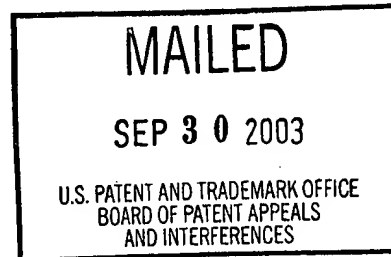
FENG YAN, MICHEL SCHNEIDER, and JEAN BROCHOT,  
Junior Party,<sup>1</sup>

v.

STEVEN C. QUAY,  
Junior Party,<sup>2</sup>

v.

JO KLAIVENESS, HANNO PRIEBE, PAL RONGVED, and LARS STUBBERUD,  
Senior Party.<sup>3</sup>



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Patent Interference No. 103,881

---

REDECLARATION AND JUDGMENT

---

Before WILLIAM SMITH, PATE, and MARTIN, Administrative Patent Judges.

Martin, Administrative Patent Judge.

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<sup>1</sup> Application 08/637,346, filed April 25, 1996. According to PTO records, assigned to Bracco International B.V.

<sup>2</sup> Application 08/646,910, filed May 8, 1996 (also involved in Interference No. 103,880). According to PTO records, parent Application 08/380,085, of which the '910 application is a divisional application, is assigned to Sonus Pharmaceuticals, Inc.

<sup>3</sup> Patent 5,536,490, issued July 16, 1996, based on Application 08/119,217, filed October 29, 1993. According to PTO records, assigned to Nycomed Imaging A/S.

On September 30, 2003, the parties filed a Joint Statement on Termination of Interference" requesting that the interference be terminated "pursuant to the findings and rulings set forth in the Decision on Motions; Show Cause Order, issued January 31, 2003." In accordance with paragraph (a) of that show cause order, which appears at pages 106-07 of the decision, the interference is hereby redeclared to add Schneider et al. Application 09/002,710 and Klaveness et al. Reissue Application 09/227,410 to this interference, in which Count 1, the sole count, reads:

Count 1

A method of ultrasonic imaging comprising administering to a subject a [sic<sup>4</sup>] composition comprising microbubbles of a fluorinated gas; and ultrasonically imaging at least a portion of said subject

or

A method of ultrasonic imaging comprising administering to a subject a composition comprising microbubbles [sic, of] a fluorinated gas, wherein said fluorinated gas is selected from the group consisting of SF<sub>6</sub>, SeFe<sub>6</sub> [sic, SeF<sub>6</sub>], CF<sub>4</sub>, CBrF<sub>3</sub>, C<sub>4</sub>F<sub>8</sub>, CClF<sub>3</sub>, CCl<sub>2</sub>F<sub>2</sub>, C<sub>2</sub>F<sub>6</sub>, C<sub>2</sub>ClF<sub>5</sub>, CBrClF<sub>2</sub>, C<sub>2</sub>Cl<sub>2</sub>F<sub>4</sub>, CBr<sub>2</sub>F<sub>2</sub>, and C<sub>4</sub>F<sub>10</sub>; and ultrasonically imaging at least a portion of said subject

or

A method of enhancing ultrasound images of a vascular system comprising administering to said system a diagnostic ultrasound contrast agent comprising microbubbles comprising an amphiphilic phospholipid

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<sup>4</sup> This "[sic]" notation, which appears in the count, presumably is an error.

material capable of formation of gas-containing microbubbles, said microbubbles containing a gas comprising SF<sub>6</sub>; wherein said phospholipid material is crosslinked or polymerized.

Further in accordance with paragraph (a) of the show cause order, the following claims are designated as corresponding to Count 1:

- (1) Claim 43 of Yan et al. Application 08/637,346;
- (2) Claims 66-81 of Schneider et al. Application 09/002,710;
- (3) Claims 26, 28-30, and 42-50 of Quay's Application 08/646,910;
- (4) Claims 2, 39, and 40 of Klaveness et al. Patent 5,536,490; and
- (5) Claims 2 and 39, 40, and 45 Klaveness et al. Reissue Application 09/227,410.

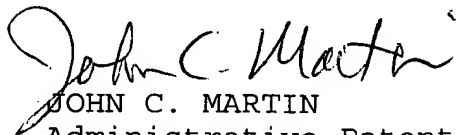
In accordance with paragraphs (b) and (c), judgment is hereby entered against all of the involved claims on the ground of unpatentability over the prior art, and judgment is also hereby entered against the following claims under 35 U.S.C. § 112, first paragraph for lacking written descriptive support: claim 43 of the Yan et al. '346 application, claims 2 and 40 of the Klaveness et. al. patent, and claims 2 and 40 of Klaveness et al. reissue application.

As a result, no party is entitled to any of its claims which are designated as corresponding to Count 1, the sole count.

  
WILLIAM F. SMITH )  
Administrative Patent Judge )

  
WILLIAM F. PATE III )  
Administrative Patent Judge )

BOARD OF PATENT  
APPEALS AND  
INTERFERENCES

  
JOHN C. MARTIN )  
Administrative Patent Judge )

Interference No. 103,881

cc:

For the party Yan et al.:

Thomas J. Macpeak, Esq.  
ARMSTRONG, WESTERMAN & HATTORI LLP  
1725 K Street, N.W.  
Washington, D.C. 20006

For the parties Klaveness et al. and Quay:

Richard L. DeLucia, Esq.  
KENYON & KENYON  
One Broadway  
New York, NY 10004

**INTERFERENCE  
DIGEST**

Interference No. 103 881 Paper No. 14  
Name, Schneider et al  
Serial No. 09/002710 Patent No. \_\_\_\_\_  
Title, \_\_\_\_\_  
Filed, \_\_\_\_\_  
Interference with \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DECISION ON MOTIONS**

Examiner-in-Chief, \_\_\_\_\_ Dated, \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**FINAL DECISION**

Board of Patent Appeals and Interferences, Adversed Dated 10/9/03  
claims 66-81  
Court, \_\_\_\_\_ Dated, \_\_\_\_\_

**REMARKS**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## INTERFERENCE-INITIAL MEMORANDUM

EXAMINER'S INSTRUCTIONS-This form need not be typewritten. Complete the items listed below and forward to the Group Clerk with all files including those benefit of which had been accorded. The parties need not be listed in any specific order. Use a separate form for each count. (See MPEP 2309.02)

BOARD OF PATENT APPEALS AND INTERFERENCES: An interference is found to exist between the following cases:

This is count 1 of 2 count(s).

1. NAME	SERIAL NO.	FILING DATE	PATENT NO., IF ANY
Klaveness et al.	08/119,217	12/16/92	5,536,490

The claims of this party which correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

39, 40

UNPATENTABLE PENDING CLAIMS:

None

The claims of this party which do not correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

1-38

UNPATENTABLE PENDING CLAIMS:

None

Accorded benefit of: COUNTRY	SERIAL NO.	FILING DATE	PATENT NO., IF ANY
United Kingdom	9106673.8	3/28/91	
PCT	PCT/EP92/00715	3/28/92	

2. NAME	SERIAL NO.	FILING DATE	PATENT NO., IF ANY
Schneider et al.	09/002,710	1/5/98	None

The claims of this party which correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

66-81

UNPATENTABLE PENDING CLAIMS:

None

The claims of this party which do not correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

50-65, 82-97

UNPATENTABLE PENDING CLAIMS:

None

Accorded benefit of: COUNTRY	SERIAL NO.	FILING DATE	PATENT NO., IF ANY
EP	90810262.7	4/2/90	
WO	PCT/EP91/00620	4/2/91	
US	07/775,989	11/20/91	5,271,928
EP	92810046.0	1/24/92	
US	07/991,237	12/16/92	5,413,774
US	08/128,540	9/29/93	5,380,519
US	08/380,588	1/30/95	5,578,292
US	08/740,653	10/31/96	

3. NAME	SERIAL NO.	FILING DATE	PATENT NO., IF ANY
Quay	08/646,910	5/8/96	None

The claims of this party which correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

26

UNPATENTABLE PENDING CLAIMS:

None

The claims of this party which do not correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

15-25

UNPATENTABLE PENDING CLAIMS:

None

Accorded benefit of: COUNTRY	SERIAL NO.	FILING DATE	PATENT NO., IF ANY
US	07/761,311	9/17/91	None
US	07/893,657	6/5/92	5,409,688
US	07/936,657	9/2/92	None
US	08/380,085	1/30/95	5,558,854

If a claim is exactly the same as this count, it should be circled above. If not, type the count in this space (attach additional sheet if necessary)

A method of ultrasonic imaging comprising administering to a subject a composition comprising microbubbles of a fluorinated gas; and ultrasonically imaging at least a portion of said subject

or

A method of ultrasonic imaging comprising administering to a subject a contrast agent comprising an aqueous suspension of stabilized microbubbles, said stabilized microbubbles comprising a physiologically acceptable halogenated hydrocarbon gas; and ultrasonically imaging at least a portion of said subject.

or

A method of enhancing ultrasound images of a vascular system comprising administering to said system a diagnostic ultrasound contrast agent comprising microbubbles comprising an amphiphilic phospholipid material capable of formation of gas-containing microbubbles, said microbubbles containing a gas comprising SF<sub>6</sub>; wherein said phospholipid material is cross-linked or polymerized.

\* The serial number and filing date of each application the benefit of which is intended to be accorded must be listed. It is not sufficient to merely list the earliest application if there are intervening applications necessary for continuity.

DATE 9/9/99	PRIMARY EXAMINER Gary E. Hollinden	TELEPHONE NO. 308-4521	ART UNIT 1616
Clerk's Instructions: 1. Obtain a title report for all cases and include a copy. 2. Forward all files including those benefit of which is being accorded.		GROUP DIRECTOR'S SIGNATURE (if required)	

7. Explanation under 37 CFR § 1.609(b)(2)

Klaveness et al.: Claims 39 and 40 correspond to the count because said claims are specifically drawn to a method of imaging comprising microvesicles containing a fluorinated gas. The additional functional limitations that the vesicles are non-proteinaceous and cross-linked and that the fluorinated gas is sulfur hexafluoride are not significant limitations and would not render the invention patentably distinct from the count; particularly since each of the other two parties also specify interfaces that are non-proteinaceous. Also, both parties specifically claim sulfur hexafluoride.

Schneider et al.: Claims 67 and 75 correspond to the count because they are essentially identical to the count with the exception that each additionally recites a substituent of the shell. Claims 66, 68-74, and 77-81 also substantially correspond to the count except that they are drawn to various sub-genera of the genus of halogenated hydrocarbon gases.

Quay: Claim 26 corresponds to the count because it is contained within the count.

8. Explanation under 37 CFR § 1.609(b)(3)

Klaveness et al.: Claims 1-28 and 38 do not correspond to the count because they are directed towards the ultrasonic contrast agent *per se* rather than a method of using an ultrasonic contrast agent. Claims 29-37 do not correspond to the count because they are directed toward a process of making an ultrasonic contrast agent rather than a method of using an ultrasonic contrast agent.

Schneider et al.: Claims 50-65 do not correspond to the count because they are drawn to compositions rather than a method of use. Claims 82-97 do not correspond to the count because they are directed towards a process of making an ultrasonic contrast agent rather than a method of using an ultrasonic contrast agent.

Quay: Claims 15-25 do not correspond to the count because they are directed toward a process of making an ultrasonic contrast agent rather than a method of using an ultrasonic contrast agent.



## INTERFERENCE-INITIAL MEMORANDUM

BOARD OF PATENT APPEALS AND INTERFERENCES: An interference is found to exist between the following cases:

This is count 1 of 1 count(s).

1. NAME	SERIAL NO.	FILING DATE	PATENT NO., IF ANY
Klaveness et al.	08/470,044	6/6/95	None

The claims of this party which correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

39, 40

UNPATENTABLE PENDING CLAIMS:

None

The claims of this party which do not correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

23-38, 41-49

UNPATENTABLE PENDING CLAIMS:

None

Accorded benefit of:  
COUNTRY

SERIAL NO.

FILING DATE

PATENT NO., IF ANY

United Kingdom

9106673.8

3/28/91

PCT

PCT/EP92/00715

3/28/92

US

08/119,217

10/29/93

5,536,490

2. NAME

Schneider et al.

SERIAL NO.

09/002,710

FILING DATE

1/5/98

PATENT NO., IF ANY

None

The claims of this party which correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

82-97

UNPATENTABLE PENDING CLAIMS:

None

The claims of this party which do not correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

50-81

UNPATENTABLE PENDING CLAIMS:

None

Accorded benefit of:  
COUNTRY

SERIAL NO.

FILING DATE

PATENT NO., IF ANY

EP

90810262.7

4/2/90

WO

PCT/EP91/00620

4/2/91

US

07/775,989

11/20/91

5,271,928

EP

92810046.0

1/24/92

US

07/991,237

12/16/92

5,413,774

US

08/128,540

9/29/93

5,380,519

US

08/380,588

1/30/95

5,578,292

US

08/740,653

10/31/96

3. NAME

Quay

SERIAL NO.

08/646,910

FILING DATE

5/8/96

PATENT NO., IF ANY

None

The claims of this party which correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

15-25

UNPATENTABLE PENDING CLAIMS:

None

The claims of this party which do not correspond to this count are:

PATENTED OR PATENABLE PENDING CLAIMS:

26

UNPATENTABLE PENDING CLAIMS:

None

Accorded benefit of:  
COUNTRY

SERIAL NO.

FILING DATE

PATENT NO., IF ANY

US

07/761,311

9/17/91

None

US

07/893,657

6/5/92

5,409,688

US

07/936,657

9/2/92

None

US

08/380,085

1/30/95

5,558,854

If a claim is exactly the same as this count, it should be circled above. If not, type the count in this space (attach additional sheet if necessary)

A method of making a contrast agent for ultrasonic echography, said contrast agent consisting of gas-filled microbubbles suspended in an aqueous liquid carrier phase, said method comprising the step of forming the microbubbles in the presence of a physiologically acceptable gas, or gas mixture comprising a physiologically acceptable gas, said physiologically acceptable gas being selected from the group consisting of SF<sub>6</sub> and fluorocarbon gases.

or

A method of ultrasonic imaging comprising administering to a subject a contrast agent comprising an aqueous suspension of stabilized microbubbles, said stabilized microbubbles comprising a physiologically acceptable halogenated hydrocarbon gas; and ultrasonically imaging at least a portion of said subject.

or

A process for the preparation of a contrast agent which comprises generating vesicles comprising a flexible non-proteinaceous amphiphilic polymer material capable of formation of gas-containing vesicles, said vesicles containing a biocompatible fluorinated hydrocarbon being in gaseous form at 37° C.

\* The serial number and filing date of each application the benefit of which is intended to be accorded must be listed. It is not sufficient to merely list the earliest application if there are intervening applications necessary for continuity.

DATE 9/9/99	PRIMARY EXAMINER Gary E. Hollinden	TELEPHONE NO. 308-4521	ART UNIT 1616
Clerk's Instructions: 1. Obtain a title report for all cases and include a copy. 2. Forward all files including those benefit of which is being accorded.		GROUP DIRECTOR'S SIGNATURE (if required)	

7.

Explanation under 37 CFR § 1.609(b)(2)

Klaveness et al.: Claims 39 and 40 correspond to the count because said claims are specifically drawn to a method of preparing microvesicles containing a fluorinated gas. The additional functional limitations that the vesicles are non-proteinaceous and cross-linked and that the fluorinated gas is sulfur hexafluoride are not significant limitations and would not render the invention patentably distinct from the count; particularly since each of the other two parties also specify interfaces that are non-proteinaceous. Also, both parties specifically claim sulfur hexafluoride.

Schneider et al.: Claims 83 and 91 correspond to the count because they are essentially identical to the count with the exception that each additionally recites a substituent of the shell. Claims 82, 84-90, and 92-97 also substantially correspond to the count except that they are drawn to various sub-genera of the genus of halogenated hydrocarbon gases.

Quay: Claim 15 corresponds to the count because it is contained within the count. Claims 16-25 correspond to the count because they are drawn to specific fluorinated gases which fall within the count.

8.

Explanation under 37 CFR § 1.609(b)(3)

Klaveness et al.: Claims 1-38 and 41-46 do not correspond to the count because they are directed towards the ultrasonic contrast agent *per se* rather than a method of using an ultrasonic contrast agent.

Schneider et al.: Claims 50-65 do not correspond to the count because they are drawn to compositions rather than a method of use. Claims 66-81 do not correspond to the count because they are directed towards a method of using an ultrasonic contrast agent rather than a method of making an ultrasonic contrast agent.

Quay: Claim 26 does not correspond to the count because it is directed towards a method of using a contrast agent while the instant count is directed towards a method of making an ultrasonic composition.

9.

Explanation under 37 CFR § 1.609(b)(1)

The second count is patentably distinct from the first count because the first count is directed towards a process of using an ultrasonic contrast agent while the second count is directed towards a method of making an ultrasonic contrast agent.